

## Office of the Secretary, DHS

## § 27.310

States for a civil penalty of not more than \$25,000 for each day during which the violation continues.

(c) *Procedures for Orders.* (1) At a minimum, an Order shall be signed by the Assistant Secretary, shall be dated, and shall include:

(i) The name and address of the facility in question;

(ii) A listing of the provision(s) that the facility is alleged to have violated;

(iii) A statement of facts upon which the alleged instances of noncompliance are based;

(iv) A clear explanation of deficiencies in the facility's chemical security program, including, if applicable, any deficiencies in the facility's Security Vulnerability Assessment, Site Security Plan, or both; and

(v) A statement, indicating what action(s) the chemical must take to remedy the instance(s) of noncompliance; and

(vi) The date by which the facility must comply with the terms of the Order.

(2) The Assistant Secretary may establish procedures for the issuance of Orders.

(d) A facility must comply with the terms of the Order by the date specified in the Order unless the facility has filed a timely Notice for Application for Review under § 27.310.

(e) Where a facility or other person contests the determination of the Assistant Secretary to issue an Order, a chemical facility may seek an adjudication pursuant to § 27.310.

(f) An Order issued under this section becomes final agency action when the time to file a Notice of Application for Review under § 27.310 has passed without such a filing or upon the conclusion of adjudication or appeal proceedings under this subpart.

### § 27.305 Neutral adjudications.

(a) Any facility or other person who has received a Finding pursuant to § 27.230(a)(12)(iv), a Determination pursuant to § 27.245(b), or an Order pursuant to § 27.300 is entitled to an adjudication, by a neutral adjudications officer, of any issue of material fact relevant to any administrative action which deprives that person of a cognizable interest in liberty or property.

(b) A neutral adjudications officer appointed pursuant to § 27.315 shall issue an Initial Decision on any material factual issue related to a Finding pursuant to § 27.230(a)(12)(iv), a Determination pursuant to § 27.245, or an Order pursuant to § 27.300 before any such administrative action is reviewed on appeal pursuant to § 27.345.

### § 27.310 Commencement of adjudication proceedings.

(a) *Proceedings Instituted by Facilities or other Persons.* A facility or other person may institute proceedings to review a determination by the Assistant Secretary:

(1) Finding, pursuant to the § 27.230(a)(12)(iv), that an individual is a potential security threat;

(2) Disapproving a Site Security Plan pursuant to § 27.245(b); or

(3) Issuing an Order pursuant to § 27.300(a) or (b).

(b) *Procedure for Applications by Facilities or other Persons.* A facility or other person may institute Proceedings by filing a Notice of Application for Review specifying that the facility or other person requests a Proceeding to review a determination specified in paragraph (a) of this section.

(1) An Applicant institutes a Proceeding by filing a Notice of Application for Review with the office of the Department hereinafter designated by the Secretary.

(2) An Applicant must file a Notice of Application for Review within seven calendar days of notification to the facility or other person of the Assistant Secretary's Finding, Determination, or Order.

(3) The Applicant shall file and simultaneously serve each Notice of Application for Review and all subsequent filings on the Assistant Secretary and the General Counsel.

(4) An Order is stayed from the timely filing of a Notice of Application for Review until the Presiding Officer issues an Initial Decision, unless the Secretary has lifted the stay due to exigent circumstances pursuant to paragraph (d) of this section.

(5) The Applicant shall file and serve an Application for Review within fourteen calendar days of the notification to the facility or other person of the